

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

DANIEL EDWARD PARKER,

Complainant,

and

UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO; and
DEPARTMENT OF PUBLIC SAFETY,
State of Hawai'i,

Respondents.

CASE NO. 18-CU-10-370
19-CE-10-923

ORDER NO. 3474

ORDER DENYING RESPONDENT
UNITED PUBLIC WORKERS'
MOTION TO RE-SET [PRE-TRIAL]
CONFERENCE BY
TELECONFERENCE AND CERTAIN
HEARINGS IN HONOLULU AND
DIRECTING THE PARTIES TO
APPEAR IN PERSON AT THE
PRETRIAL CONFERENCE AND THE
HEARING ON THE MERITS HELD IN
MAUI, HAWAI'I

**ORDER DENYING RESPONDENT UNITED PUBLIC
WORKERS' MOTION TO RE-SET [PRE-TRIAL] CONFERENCE
BY TELECONFERENCE AND CERTAIN HEARINGS IN HONOLULU
AND DIRECTING THE PARTIES TO APPEAR IN PERSON AT THE PRETRIAL
CONFERENCE AND THE HEARING ON THE MERITS HELD IN MAUI, HAWAI'I**

On February 26, 2019, the Hawai'i Labor Relations Board (Board) issued Order No. 3466, which amended Order No. 3465 in part, and among other things, noticed the scheduling of the Pretrial Conference on April 27, 2019 at 54 South High Street, State Building #1, Room B, Wailuku, Maui, and the hearing on the merits (HOM) for the week beginning April 1, 2019 also in Wailuku, Maui.

On February 27, 2019, the Board issued Errata to Pretrial Order No. 3466, correcting the date of the Pretrial Conference to Wednesday, March 27, 2019.

On March 11, 2019 at 10:00 a.m., the Board held a Pre-Hearing Conference. The Respondent UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union)

appeared in person, and Respondent DEPARTMENT OF PUBLIC SAFETY, State of Hawai'i (PSD) and Complainant DANIEL EDWARD PARKER (Complainant) appeared by teleconference.

At the Pre-Hearing Conference, the Board, among other things, set forth the schedule and locations for the Pre-Trial Conference and the HOM. The Board stated that the Pre-Trial Conference would be held on Maui because it would hear oral arguments on the UPW's dispositive motion and further, fully address and discuss the exhibits and the witnesses to be presented at the HOM.

Regarding the HOM, the Board stated that the HOM would be held on Maui during the week of April 1, 2019 because the Prohibited Practice Complaint in this case arose on Maui and for the convenience of those witnesses located on Maui. The Board further stated that subsequent dates for the HOM would also be scheduled and held on O'ahu for the convenience of the witnesses located on O'ahu.

On March 11, 2019, the UPW filed a Motion to Re-Set [Pretrial] Conference by Teleconference and Certain Hearings in Honolulu (Motion to Re-Set). In the Motion to Re-Set, UPW moved to have the March 27, 2019 [pre-trial] conference held by teleconferencing under Hawai'i Revised Statutes § 89-5 and conduct the HOM in Honolulu, Hawai'i to accommodate Honolulu witnesses because the travel to Maui is not cost efficient for the Respondents' counsel and for the Honolulu witnesses.

According to the Board's procedural rules, Hawai'i Administrative Rules § 12-42-8(g)(3)(C)(iii), a response to a motion "Answering affidavits, if any, . . . shall be filed with the board within five days after service of the motion papers, unless the board directs otherwise."

On March 15, 2019, the Complainant filed Complainant Daniel Edward Parker's Memorandum in Opposition to Union Respondent's Motion to Re-Set [Pretrial] Conference by Teleconference and Certain Hearings in Honolulu (Memorandum in Opposition). In his Memorandum in Opposition, the Complainant agreed with the Board's assessment articulated during the March 11, 2019 Pre-Hearing Conference regarding the impracticality of holding the Pre-Trial Conference by teleconference. Complainant further asserted that the Union's concerns set forth in the Motion to Re-Set were addressed at the Pre-Hearing Conference when the Board allowed for any witnesses located on Maui to be called on Maui during the HOM scheduled for the week of April 1, 2019 and for any O'ahu based witnesses to be called during a subsequently scheduled HOM on O'ahu.

PSD has not filed a response to the Motion to Re-Set.

Based on the pleadings and the record in this case and for the reasons set forth by the Board at the Pre-Hearing Conference, the Board hereby denies UPW's Motion to Re-Set [Pretrial] Conference by Teleconference and Certain Hearings in Honolulu.

All parties or counsel are directed to attend, in person, the Pretrial Conference at 54 South High Street, State Building #1, Room B, Wailuku, Maui on Wednesday, March 27, 2019 at 9:00 a.m.

All parties and counsel are further directed to attend, in person, the HOM set for April 1-5, 2019 on the island of Maui in accordance with Pretrial Order No. 3466.

DATED: Honolulu, Hawai'i, March 20, 2019.

HAWAII LABOR RELATIONS BOARD



Marcus R. Oshiro

MARCUS R. OSHIRO, Chair

Sesnita A. D. Moepono

SESNITA A.D. MOEPONO, Member

J.N. Musto

J.N. MUSTO, Member

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